

PUBLISHERS WEEKLY
30 May 1980

What Publishers Can Expect from Pending Intelligence Legislation

Congress has given up efforts to write a comprehensive new charter for the U.S. intelligence community this year. For publishing interests, what is likely to emerge is preservation of the status quo.

Congressional leaders now intend to pass simple legislation spelling out House and Senate committees' rights to oversee the intelligence agencies, but leave alone the laws that guarantee the public's access to unclassified intelligence material and preserve the CIA's right to use journalists and scholars in undercover work.

Although the Senate Intelligence Committee had to limit the scope of its bill in order to get it to the Senate floor in this election year, several attempts to amend the measure are anticipated when the full Senate acts late this month or early in June. Some of the likely amendments will be of direct interest to the publishing community.

As the legislation stands now, there will be no tinkering with the Freedom of Information Act, which allows the public to obtain unclassified information on intelligence activities. Earlier proposals would have exempted intelligence agencies from the FOIA.

There will be no proscription on divulging the names of intelligence officers or operatives. The original charter proposal would have made disclosure a crime for persons with authorized access to the names and would have carried a possible penalty of five years in prison and a \$50,000 fine.

In some bad news for publishing interests, the new legislation makes no mention of the CIA's use of journalists, clergy and scholars in its intelligence-gathering work. That means those groups would continue to rely on the administration in power to formulate guidelines for the use of such groups or individuals as covers for the intelligence community.

Current CIA policy is that journalists cannot be used except when specifically authorized by Central Intelligence Director Stansfield Turner. Clergy may be used only on an unpaid basis. There are no limitations on the use of academics.

It became clear as the Intelligence Committee wrangled over what to include in the charter that the various proposed amendments were so controversial the bill stood no chance of passage this late in an election year.

Chairman Birch Bayh (D., Ind.) worked out an agreement with two committee members, Sen. John Chafee (R., R.I.) and Sen. Daniel Patrick Moynihan (D., N.Y.). They agreed not to offer their amendments in committee so that at least the oversight section of the legislation could have a chance for passage.

Chafee is sponsor of a proposal that would ban the divulging of agents' names. Moynihan is sponsoring an amendment that would prohibit the CIA from using journalists, clergy and academics in its operations and would not even allow its agents to pose as members of those professions.

Moynihan has said that he still intends to offer his amendment on the Senate floor. Neither Chafee nor Moynihan was expected to succeed on the Senate floor, however.

In the House, meanwhile, action on a charter has been held up pending final Senate action. House Intelligence Committee Chairman Edward P. Boland (D., Mass.) indicated to PW that he was not sympathetic to the publishing industry's concerns with the charter.

"Our committee would be interested in the proposal to add the [ban on the] identification of agents" to the charter, he said, and also to exempt the CIA from FOIA. On the use of journalists, clergy and academics, he said, "I see no objection to using that class on a voluntary basis. They can be very important sources for intelligence gathering."

No champions appeared in the Senate Intelligence Committee to lead a charge for excluding the CIA from the FOIA. Heavy lobbying against such an exemption by academic and civil rights groups during hearings earlier this year may have convinced the committee not to exempt the CIA from the act.

The Authors League, Association of American Publishers, and P.E.N.'s Freedom to Write Committee were among groups testifying in favor of restrictions on the CIA's use of people in certain professions and against a CIA exemption from the FOIA.

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